

OFFICE OF THE  
LITTLETON BOARD OF APPEALS  
LITTLETON, MASSACHUSETTS 01460

9216 0.15  
**received**  
3/5/13 1030AM

Board Use Only ... Case # 820A Filing Date 2/26/13

The undersigned, having standing in this matter, hereby petitions the  
Littleton Board of Appeals for a        VARIANCE ☒ SPECIAL PERMIT  
and/or        APPEAL (Check all that apply)  
as specified below and as provided by the Town of Littleton Zoning Bylaw

1. LOCATION OF THE PROPERTY:

A. Street Address Lot 82 Goldsmith Please print  
B. Assessors' Map and Parcel # 016 73  
R Zoning District        Aquifer District        Water Resource District  
C. Deed Reference BK 1655 Pg 599

2. LITTLETON ZONING BYLAW SECTION(S)

A. Variance         
B. Special Permit 173-10 B(1)  
C. Appeal       

3. STATE BRIEFLY REASONS FOR THIS PETITION Use additional sheets, if necessary

EXISTING Non Conforming Lot w Structure, Applicant Proposes  
A CHANGE IN USE TO CONSTRUCT A RESIDENTIAL Single family.

4. PETITIONER(S) SEAN KEENAN

       Owner        Tenant        Licensee ☒ Agreed Purchaser        Agent        Other       

NOTE: If petitioner is not the owner, furnish written authorization from owner below.

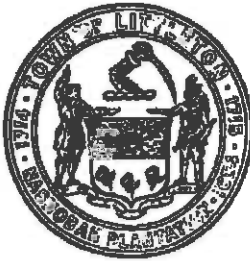
SK  
Signature 540215mm rd Littleton  
Mailing Address       

2/26/13  
Date 781-844-9668  
Telephone #       

Town Clerk Use ONLY

Filing Fee Paid \$ 200 #2404  
75 #2405

Date 3/5/13



**BUILDING COMMISSIONER**

**ZONING OFFICER**

P.O. BOX 1305  
LITTLETON, MA 01460  
VOICE (978) 540-2420

**TO:** Board of Appeals

**FROM:** Zoning Officer, Roland Bernier

**RE:** 19 Crane Road  
6 King Road  
43 Edsel Road  
82 Goldsmith Street

Pursuant to MGL Chapter 40A, §15, please accept the attached documents, papers and comments constituting the record of the case in which the above noted appeal is being taken.

**19 Crane Road**

No further comment

**6 King Road**

Applicant is seeking a variances to encroach onto the required front setback claiming hardship due to a redesign of the septic system. No building Permit application has been received for this proposal. No further comment.

**43 Edsel Road**

Applicant is seeking a special permit allowing relief from the required setback distance. No building permit application has been received by the building department. No further comment

**U16-73 Goldsmith Street**

Applicant requested a small lot determination under Chapter 40A, §6 of the MGL with the intent of constructing a single family dwelling. Research

showed that a horse barn was permitted and constructed in 1986 and therefore was not a vacant lot. A site visit verified the existence of the horse barn. Accordingly, I conclude that the owners of this lot cannot construct a single-family home on the locus as a matter of right under M.G.L. c.40A, §6, fourth par. Instead, they must seek authorization from the Zoning Board of Appeals to "change, extend, or alter" the nonconforming structure pursuant to Section 173-10.B of the Zoning Bylaw and the first paragraph of M.G.L. c.40A, §6.

**Lot 82 Goldsmith Street – Assessors Map U16 Parcel 73**

**The owner is proposing to tear down the existing barn and construct a single family dwelling.**

**The property is in the residential district**

**The existing non-conformities are:**

**Lot area - 40,000 s.f. required – 11,792 s.f.**

**Frontage – 150 feet required – 137.24 ft of frontage**

**The proposed dwelling meets the required front, side and rear setbacks.**

**The proposed dwelling will not increase the non-conformities or create new non-conformities**

R25

JUDITH A. EYCHLESYMER

of Wayland,

Middlesex County, Massachusetts,

, for the full consideration of Seven Thousand (\$7,000.00) Dollars paid

grant to RICHARD D. WOODBINE and FAITH L. WOODBINE, husband and wife as tenants by the entirety, both

of 274 Goldsmith St., Littleton, Mass.

with ~~grantee~~ ~~conveys~~ the land in Littleton, Middlesex County, known as the Lovelace Land, being Lot numbered eighty two (82), as shown on a Plan entitled, "Map B Long Lake Shores Inc., Goldsmith Street, Littleton, Mass. owned by Thompson Lake Shores, Inc., Boston, Mass., Horace F. Tuttle, Surveyor, April 15, 1945" said Plan recorded with the Middlesex South District Deeds at the End of 6862 said lot being bounded and described as follows:

NORTHERLY	by Lot 83, 135 feet;
EASTERLY	by land now or formerly of DiPietro, 101 feet;
SOUTHERLY	by a stone wall and Fletcher Road, 138 feet;
WESTERLY	by Goldsmith Street, 75 feet.

Said premises are conveyed subject to restrictions of record in so far as the same are in force and applicable.

For my title see deed from William T. Hardy and others to Judith A. Eychleshymer which deed is dated August 3, 1981 and recorded with the Middlesex South District Registry of Deeds in Book 14378, Page 529.

Also see supplement deed from Janice Tracey Hardy and others to Judith A. Eychleshymer, which deed is dated October 10, 1985 and is to be recorded immediately prior to the recording of this deed.

## Roland Bernier

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**From:** Christopher Heep [cheep@miyares-harrington.com]  
**Sent:** Friday, February 22, 2013 12:46 PM  
**To:** Roland Bernier  
**Cc:** Tom Harrington  
**Subject:** Small Lot Review-Assessors' Map U16, Lot 73

**Follow Up Flag:** Follow up  
**Flag Status:** Flagged

**Categories:** Red Category

Roland:

I have reviewed the Request for Determination that Attorney Brian E. Burke filed on behalf of Richard D. Woodbine and Faith L. Woodbine. This request concerns 274 Goldsmith Street, which is shown on Assessors' Map U16 as Parcel 73. The lot contains approximately 12,000 square feet, and is the site of an existing barn.

As you know, when conducting a small lot review, I examine chain of title to the locus, and the chain of title to all of the abutting lots, for the purpose of determining whether there has been any common ownership since the zoning change that rendered the locus nonconforming. This analysis is based on the fourth paragraph of M.G.L. c.40A, §6, which provides that increases to area, frontage, width, yard or depth requirements do not apply to "a lot for single and two-family residential use which at the time of recording or endorsement, whichever occurs sooner was not held in common ownership with any adjoining land, conformed to then existing requirements and had less than the proposed requirement but at least five thousand square feet of area and fifty feet of frontage." If an undersized lot has never been in common ownership, it is typically "grandfathered" pursuant to paragraph 4, and can be built upon as a matter of right.

The provisions of the fourth paragraph of M.G.L. c.40A, §6 only apply, however, to a vacant lot. In *Bransford v. Zoning Bd. of Appeals of Edgartown*, 444 Mass. 852, 856 n. 7 (2005), the Court stated that the fourth paragraph of this section "applies only to a lot not held in common ownership as reflected in the most recent instrument of record before the effective date of the zoning change, and to a lot comprised of vacant land (a lot on which construction has not begun)." (emphasis added). The Land Court has ruled that a lot with a pre-existing barn is not vacant for purposes of paragraph 4, and that a single-family home could not be constructed on such a lot pursuant to the grandfathering provisions of this paragraph. *Ryder v. Crawford*, Mass. Land Ct. (May 16, 2008)(Lombardi, J.)(2008 WL 2070128).

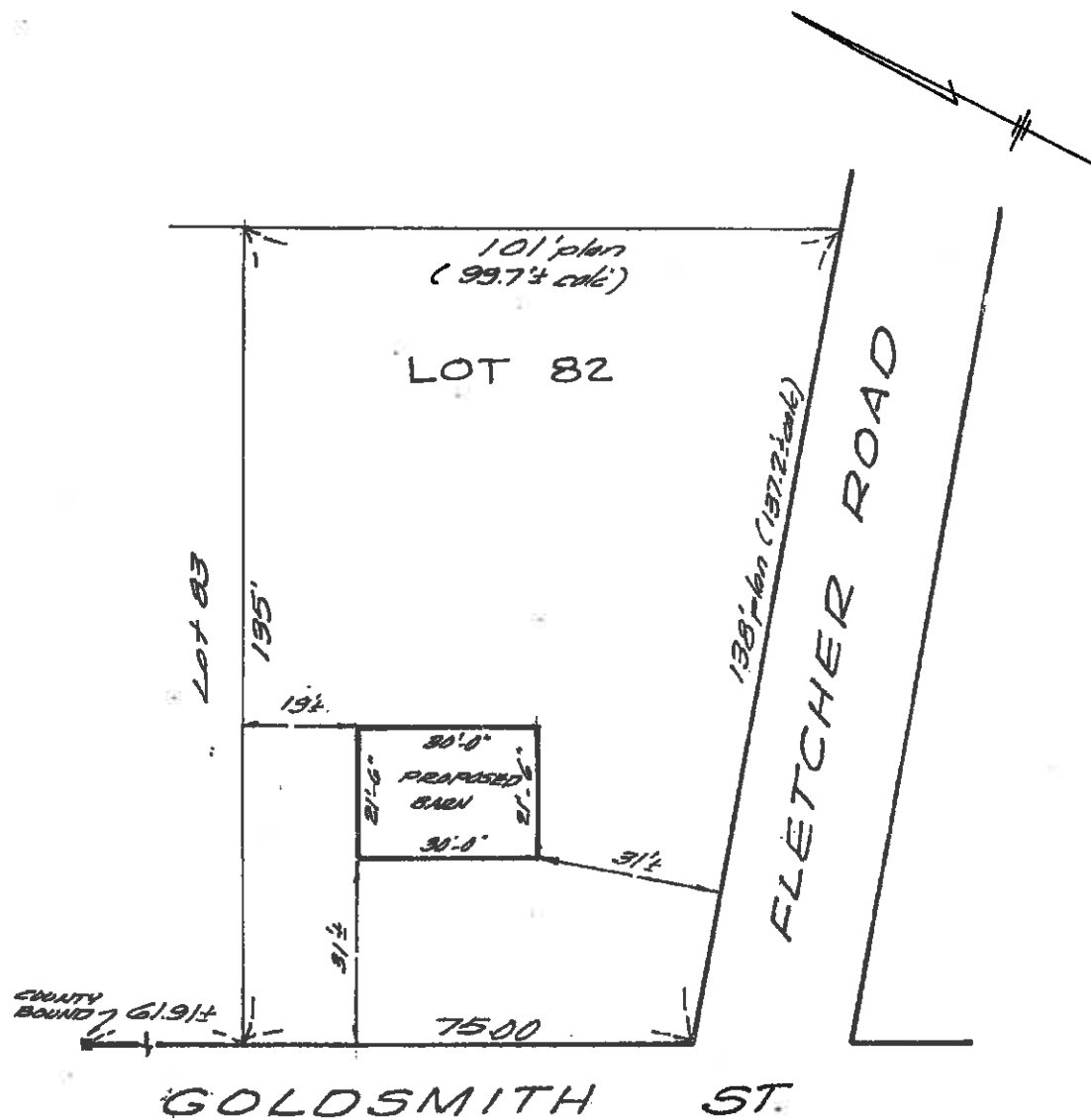
Accordingly, I conclude that the owners of this lot cannot construct a single-family home on the locus as a matter of right under M.G.L. c.40A, §6, fourth par. Instead, they must seek authorization from the Zoning Board of Appeals to "change, extend, or alter" the nonconforming structure pursuant to Section 173-10.B of the Zoning Bylaw and the first paragraph of M.G.L. c.40A, §6.

Please give me a call if you want to discuss this one.

Thanks,  
Chris

Christopher H. Heep  
MIYARES AND HARRINGTON LLP

PLAN REFERENCE: SEE PLAN BY H.F. TUTTLE, SURV.  
DATED APRIL 15, 1945 RECORDED IN  
BOOK 6862 PAGE END.



PLOT PLAN OF LAND  
IN  
LITTLETON • MASS.  
SHOWING PROPOSED BARN

SCALE: 1 INCH = 20 FEET

MAY 14, 1986

ACTON SURVEY & ENGINEERING, INC.  
277 CENTRAL ST. • ACTON • MASS.

